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 NORTHERN DISTRICT OF CALIFORNIA

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 SECURITIES AND EXCHANGE COMMISSION
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

BROCADE COMMUNICATIONS SYSTEMS,
INC.,

Defendant.

**CONSENT OF DEFENDANT
 BROCADE COMMUNICATIONS
 SYSTEMS, INC. TO FINAL
 JUDGMENT**

1. Defendant Brocade Communications Systems, Inc. ("Defendant") waives service of the summons and complaint in this action; enters a general appearance, and admits the Court's jurisdiction over Defendant and over the subject matter of this action.

2. Without admitting or denying the allegations of the complaint (except as to personal and subject matter jurisdiction, which Defendant admits), Defendant hereby consents to the entry of the final Judgment in the form attached hereto (the "Final Judgment") and incorporated by reference herein, which, among other things

(a) permanently restrains and enjoins Defendant from violation of Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §

**CONSENT OF DEF. BROCADE
 COMMUNICATIONS SYSTEMS, INC. TO FINAL
 JUDGMENT**

77q(a)], Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b), 78(m)(b)(2)(A), and 78(m)(b)(2)(B)] and Rules 10b-5, 12b-20, 13a-1, 13a-11, and 13a-13 [17 C.F.R. §§ 240.10b-5, 240.12b-20, 240.13a-1, 240.13a-11, and 240.13a-13], thereunder; and

(b) orders defendant to pay a civil penalty in the amount of \$7 million pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78(d)(3)].

3. Defendant consents to satisfy the obligations identified in Paragraph 2(b) above by paying \$7,000,000.00 within ten business days of the entry of the Final Judgment to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Brocade as a defendant in this action; setting forth the title and civil action number of this action and the name of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendant agrees that it will simultaneously transmit photocopies of such payment and letter to the Commission's counsel in this action. Defendant agrees that by making this payment, it relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant. Defendant shall pay post-judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

4. Defendant agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendant pays pursuant to the Final Judgment, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

1 5. Defendant waives the entry of findings of fact and conclusions of law pursuant
2 to Rule 52 of the Federal Rules of Civil Procedure.

3 6. Defendant waives the right, if any, to appeal from the entry of the Final
4 Judgment.

5 7. Defendant enters into this Consent voluntarily and represents that no threats,
6 offers, promises, or inducements of any kind have been made by the Commission or any member,
7 officer, employee, agent, or representative of the Commission to induce Defendant to enter into this
8 Consent.

9 8. Defendant agrees that this Consent shall be incorporated into the Final
10 Judgment with the same force and effect as if fully set forth therein.

11 9. Defendant will not oppose the enforcement of the Final Judgment on the
12 ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure,
13 and hereby waives any objection based thereon.

14 10. Defendant waives service of the Final Judgment and agrees that entry of the
15 Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant
16 of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within
17 thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or
18 declaration stating that Defendant has received and read a copy of the Final Judgment.

19 11. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims
20 asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or
21 representation has been made by the Commission or any member, officer, employee, agent, or
22 representative of the Commission with regard to any criminal liability that may have arisen or may
23 arise from the facts underlying this action or immunity from any such criminal liability. Defendant
24 waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the
25 imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's
26 entry of a permanent injunction may have collateral consequences under federal or state law and the
27 rules and regulations of self-regulatory organizations, licensing boards, and other regulatory
28 organizations. Such collateral consequences may include, but are not limited to, a statutory

1 disqualification with respect to membership or participation in, or association with a member of, a
2 self-regulatory organization. This statutory disqualification has consequences that are separate from
3 any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding
4 before the Commission based on the entry of the injunction in this action, Defendant understands that
5 it shall not be permitted to contest the factual allegations of the complaint in this action.

6 12. Defendant understands and agrees to comply with the Commission's policy
7 "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction
8 while denying the allegation in the complaint or order for proceedings." 17 C.F.R. § 202.5. In
9 compliance with this policy, Defendant agrees: (i) not to take any action or to make or permit to be
10 made any public statement denying, directly or indirectly, any allegation in the complaint or creating
11 the impression that the complaint is without factual basis; and (ii) that upon the filing of this Consent,
12 Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation
13 in the complaint. If Defendant breaches this agreement, the Commission may petition the Court to
14 vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph
15 affects Defendant's: (i) testimonial obligations; or (ii) right to take legal or factual positions in
16 litigation or other legal proceedings in which the Commission is not a party.

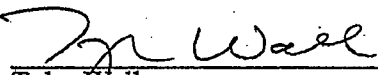
17 13. Defendant hereby waives any rights under the Equal Access to Justice Act, the
18 Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to
19 pursue reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to
20 defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing
21 party in this action since the parties have reached a good faith settlement.

22 14. In connection with this action and any related judicial or administrative
23 proceeding or investigation commenced by the Commission or to which the Commission is a party,
24 Defendant (i) agrees to take all possible steps to make available its employees and agents to appear
25 and be interviewed by Commission staff at such times and places as the staff requests upon
26 reasonable notice; (ii) will accept service by mail or facsimile transmission of notices or subpoenas
27 issued by the Commission for documents or testimony at depositions, hearings, or trials, or in
28 connection with any related investigation by Commission staff; (iii) appoints Defendant's

undersigned attorney as agent to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the testimony reimburses Defendant's travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction over Defendant in any United States District Court for purposes of enforcing any such subpoena.

15. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.


Day of 5/30, 2007

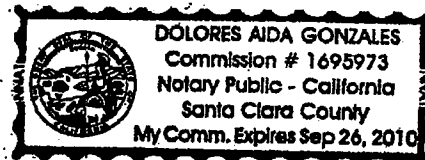

Tyler Wall
Vice President & General Counsel
For Brocade Communications Systems, Inc.

State of California
County of Santa Clara

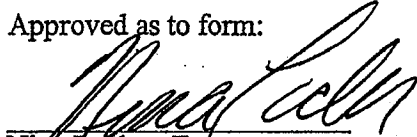
On 5/30/2007 before me, Dolores Gonzales, Notary Public, personally appeared Tyler Wall, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


Notary Public
Commission Expires: 9/26/2010



Approved as to form:


Nina Locker, Esq.
Wilson Sonsini Goodrich & Rosati LLP
650 Page Mill Road
Palo Alto, CA 94304

Attorney for Defendant Brocade Communications Systems, Inc.

1 MARC J. FAGEL (Bar No. 154425)
PATRICK T. MURPHY (Admitted in NY)
2 ROBERT S. LEACH (Bar No. 196191)
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7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 SECURITIES AND EXCHANGE COMMISSION,

Case No.

12 Plaintiff,

13 vs.

[PROPOSED] FINAL JUDGMENT

14 BROCADE COMMUNICATIONS SYSTEMS,

15 INC.,

16 Defendant.

17
18 The Securities and Exchange Commission having filed a Complaint and Defendant Brocade
19 Communications Systems, Inc. ("Defendant") having entered a general appearance; consented to the
20 Court's jurisdiction over Defendant and the subject matter of this action; consented to entry of this
21 Final Judgment without admitting or denying the allegations of the Complaint (except as to
22 jurisdiction); waived findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules
23 of Civil Procedure; and waived any right to appeal from this Final Judgment:

24 I

25 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's
26 agents, servants, employees, attorneys, and all persons in active concert or participation with them
27 who receive actual notice of this Final Judgment by personal service or otherwise are permanently
28 restrained and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] in the

[PROPOSED] FINAL JUDGMENT

1 offer or sale of any security by the use of any means or instruments of transportation or
2 communication in interstate commerce or by use of the mails, directly or indirectly:

3 (a) to employ any device, scheme, or artifice to defraud;

4 (b) to obtain money or property by means of any untrue statement of a material fact or any
5 omission of a material fact necessary in order to make the statements made, in light of the
6 circumstances under which they were made, not misleading; or

7 (c) to engage in any transaction, practice, or course of business which operates or
8 would operate as a fraud or deceit upon the purchaser.

9 II.

10 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and
11 Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation
12 with any of them who receive actual notice of this Final Judgment by personal service or otherwise
13 are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the
14 Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5
15 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate
16 commerce, or of the mails, or of any facility of any national securities exchange, in connection with
17 the purchase or sale of any security:

18 (a) to employ any device, scheme, or artifice to defraud;

19 (b) to make any untrue statement of a material fact or to omit to state a material act
20 necessary in order to make the statements made, in the light of the circumstances under which they
21 were made, not misleading; or

22 (c) to engage in any act, practice, or course of business which operates or would operate
23 as a fraud or deceit upon any person.

24 III.

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant and its agents,
26 servants, employees, attorneys, and all persons in active concert or participation with any of them
27 who receive actual notice of this Final Judgment, by personal service or otherwise, are permanently
28 restrained and enjoined from violating Section 13(a) of the Exchange Act [15 U.S.C. § 18m(a) and

1 Rules 12b-20, 13a-1, 13a-11, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, and
2 240.13a-13], thereunder, by failing to file annual and periodic reports in conformity with the
3 Commission's integrated reporting and disclosure regulations, Regulations S-K and S-X, or by failing
4 to include such further material information as may be necessary to make the required statements, in
5 light of the circumstances under which they were made, not misleading.

6 IV.

7 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant and its agents,
8 servants, employees, attorneys, and all persons in active concert or participation with any of them
9 who receive actual notice of this Final Judgment, by personal service or otherwise, are permanently
10 restrained and enjoined from any violation of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange
11 Act [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)] by failing, with respect to any issuer which has a
12 class of securities registered pursuant to Section 12 of the Exchange Act or which is required to file
13 reports pursuant to Section 15(d) of the Exchange Act, to devise and maintain a system of internal
14 accounting controls sufficient to provide reasonable assurances that:

15 (a) transactions are executed in accordance with management's general or specific
16 authorization;

17 (b) transactions are recorded as necessary (a) to permit preparation of financial statements
18 in conformity with generally accepted accounting principles or any other criteria applicable to such
19 statements, and (b) to maintain accountability for assets;

20 (c) access to assets is permitted only in accordance with management's general or specific
21 authorization; and

22 (d) the recorded accountability for assets is compared with the existing assets at
23 reasonable intervals and appropriate action is taken with respect to any differences.

24 V.

25 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant shall pay a
26 civil penalty in the amount of \$7 million pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C.
27 § 78u(d)(3)]. Defendant shall make this payment within 10 days after entry of this Final Judgment by
28 certified check, bank cashier's check or United States postal money order payable to the Securities

1 and Exchange Commission. The payment shall be delivered or mailed to the Office of Financial
2 Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way,
3 Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Brocade
4 as a defendant in this action; setting forth the title and civil action number of this action and the name
5 of this Court; and specifying that payment is made pursuant to this Final Judgment. Defendant shall
6 pay post-judgment interest on any delinquent amounts pursuant to 28 USC § 1961. The Commission
7 shall remit the funds paid pursuant to this paragraph to the United States Treasury.

8 VI.

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent of Defendant
10 Brocade Communications Systems, Inc. to Entry of Final Judgment, filed concurrently with this Final
11 Judgment, is incorporated herein with the same force and effect as if fully set forth herein, and that
12 Defendant shall comply with all of the undertakings and agreements set forth therein.

13 VI.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain
15 jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

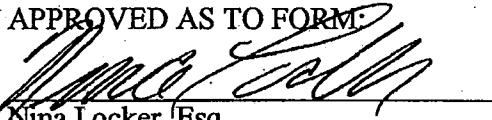
VII.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Judgment forthwith and without further notice.

Dated: _____, _____

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:


Nina Locker, Esq.

Wilson Sonsini Goodrich & Rosati, LLP
650 Page Mill Road
Palo Alto, CA 94304

Attorney for Defendant BROCADE COMMUNICATIONS SYSTEMS, INC.

SUBMITTED BY:


Marc J. Fagel, Esq.

Patrick T. Murphy, Esq.
Robert S. Leach, Esq.
Susan Fleischmann, Esq.

Attorneys for Plaintiff
SECURITIES AND EXCHANGE COMMISSION